

REMARKS/ARGUMENTS

Claims 1, 4-10, 12-14, 24-28 and 30 are pending. Claims 27 and 30 are amended. Support for the amendment to claim 27 can be found at least in claim 1 and claim 27 as originally filed. Claim 30 has been amended in accordance with the Examiner's suggestions in the 03 January 2007 Office Action.

Entry and consideration of the instant claim amendments after final is respectfully requested as the instant claim amendments place the application in condition for allowance and/or in better format for Appeal and/or further limit issues which may be raised on appeal.

Applicant respectfully submits that the instant amendments were not previously submitted as the issues addressed by the amendments were only raised for the first time in the Final Action. Accordingly, Applicant could not have made the requisite claim amendments obviating the issues at an earlier stage in the proceedings. Additionally, the instant claim amendments merely obviate the issues newly raised by the Examiner and do not change the scope of the claims or add new matter which would necessitate further substantial examination and/or search by the Examiner.

In view thereof, favorable action is respectfully requested.

Election/Restriction

The Examiner has withdrawn claim 27 asserting that the claim is drawn to a non-elected invention. Applicant amended claim 27 to contain proper antecedent basis to claim 1 and to better clarify the claim. Thus, because claim 27 depends directly from the isolated nucleic acid sequence which encodes a polypeptide of claim 1, the restriction requirement should be withdrawn and the claim rejoined.

Further, because claim 27 depends from claim 1, and claim 1 is allowable, claim 27 should be allowable. Favorable action is solicited.

Additionally, Applicant respectfully requests rejoinder of withdrawn claims 2-3, 15-17, 18, 20 and 22. As a National Stage of a PCT, the instant application falls under PCT Rule 13 in regard to restriction requirements. The Examiner is directed specifically to Rule 13.4 which

states:

Subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

Accordingly, because the instant claims fulfill the unity of invention requirement of Rule 13.1, as evidenced by the allowability of claim 1, claims 2-3, 15-17, 18, 20 and 22 should be rejoined. Favorable action is solicited.

Claim objections

Claim 30 has been amended according to the Examiner's suggestions and thus, the objections are moot.

Remarks regarding 35 USC 112 ¶2

The Examiner asserts that claims 29 and 30 are allegedly indefinite. While neither agreeing with the Examiner's reasons for or correctness of the rejection, Applicant canceled claim 29 and the rejection for this claim is moot. Further, Applicant's amended claim 30 now recites "nucleic" instead of "nuclei" and the rejection for this claim is also moot.

Application No.: 10/069,772
Inventor: FEUSSNER et al.
Reply to Office Action of 03 January 2007
Docket No.: 50669

Conclusion

Applicant respectfully submits that the present application is in condition for allowance, which action is courteously requested. Please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 14.1437. Please credit any excess fees to such account.

Respectfully submitted,
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